

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of JAIVANTE QUIUTELL JAMES,
JAMARIYON CARDELL EUBANKS, LEONNA
ASIA LEFAYE EUBANKS, and LEROY
DONTAY EUBANKS, Minors.

DEPARTMENT OF HUMAN SERVICES,

Petitioner-Appellee,

v

JULIE ANN ROBINSON,

Respondent-Appellant,

and

JAY WINDELL JAMES and CARTER
EUBANKS IV,

Respondents.

Before: Borrello, P.J., and Murphy and M. J. Kelly, JJ.

PER CURIAM.

Respondent Julie Robinson appeals as of right from the order terminating her parental rights to the minor children pursuant to MCL 712A.19b(3)(c)(i) and (g). We affirm.

This Court reviews the trial court's determinations that a ground for termination has been established by clear and convincing evidence and regarding the child's best interest under the "clearly erroneous" standard. MCR 3.977(J); *In re Jenks*, 281 Mich App 514, 516-517; 760 NW2d 297 (2008).

The trial court did not clearly err in finding that the statutory grounds for termination were established. The June 2005 petition alleged substance abuse, housing, and parenting skills

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as the adjudicating issues, and those issues were addressed in respondent's treatment plan. However, respondent was not in compliance with any components of the treatment plan by the time of the December 2007 filing of the supplemental termination petition. Most significantly, respondent herself admitted using marijuana through December 25, 2007. Although respondent started to make progress with her substance abuse problem after moving into the Next Phase Recovery Facilities in early January 2008, she had delayed almost two and a half years before committing herself to the treatment plan and had only resided at the Next Phase Recovery Facilities for three weeks when the contested termination hearing began. The evidence shows that respondent was fully apprised throughout the protective proceedings of what was expected from her, but chose to self-medicate by abusing substances and deny the severity of her substance abuse instead of investing herself in the treatment plan. Meanwhile, the children's lives went on, and they were placed in out-of-home care for almost the entire year preceding the contested termination hearing. The oldest child was a teenager who had been adversely affected by respondent's problems in the past when he had to essentially raise himself as well as care for the three other children, and those three other children's young ages made them in special need of permanence. Furthermore, respondent continued to lack suitable housing for the children and concerns remained about her parenting techniques. Therefore, the trial court did not clearly err when it found that the adjudicating conditions were not rectified by the time of the contested termination hearing and that there was no reasonable likelihood that those conditions would be rectified within a reasonable time given the children's ages. MCL 712A.19b(3)(c)(i).

The trial court also properly based termination of respondent's parental rights on MCL 712A.19b(3)(g). Respondent's past failure to comply with the treatment plan provided some evidence of her failure to provide proper care and custody for the children¹ and necessitated their removal from her care in February 2007. Even though respondent had progressed since residing at the Next Phase Recovery Facilities, that progress was recent, short-lived, and involved just her substance abuse, thus necessitating much longer treatment on substance abuse and other issues before the children could be returned to her care. Therefore, there was no reasonable expectation that respondent would be able to provide proper care and custody within a reasonable time given the children's ages.

The trial court also did not clearly err in its best-interests determination. Under the version of MCL 712A.19b(5) that was in effect when respondent's parental rights were terminated, a trial court was required to terminate a parent's rights if clear and convincing evidence established at least one statutory basis for termination, unless the trial court found termination to be clearly against the child's best interests. A review of the whole record shows that the children clearly were strongly bonded to respondent at the start of this proceeding and, even after their removal from respondent's care, they remained happy for the most part to visit with respondent. However, those visitations were sporadic until they were moved to the agency. Furthermore, the oldest child had expressed a preference to be adopted, and the younger children's young ages made them in special need of permanence. Respondent's actions and

¹ *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003).

troubled history, the children's need for stability, and the length of time the children had spent as wards of the court provided sufficient evidence for the court's best-interest determination.

Affirmed.

/s/ Stephen L. Borrello

/s/ William B. Murphy

/s/ Michael J. Kelly